

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

In the matter of:

Arnold H. Avila (owner/operator)
Arnold H. Avila, Jr. (operator)
Benfica Dairy

Order No. R5-2015-0508

Settlement Agreement and Stipulation
for Entry of Order; Order

Section I: INTRODUCTION

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order ("Stipulated Order" or "Order") is entered into by and between the Assistant Executive Officer of the Regional Water Quality Control Board, Central Valley Region ("Central Valley Water Board"), on behalf of the Central Valley Water Board Prosecution Staff ("Prosecution Staff"), and Arnold H. Avila (owner/operator) and Arnold H. Avila, Jr. (operator) ("Discharger") (Prosecution Staff and Discharger are collectively, the "Parties") and is presented to the Central Valley Water Board, or its delegee, for adoption as an order by settlement, pursuant to Government Code section 11415.60.

Section II: RECITALS

1. Arnold H. Avila (owner/operator) and Arnold H. Avila, Jr. (operator) own and operate Benfica Dairy (Dairy) located at [REDACTED] Lemoore, CA 93245. On 3 May 2007, the Central Valley Water Board issued the Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2007-0035 ("General Order") and the General Order's corresponding Monitoring and Reporting Program. The General Order became effective on 9 May 2007. Benfica Dairy is regulated by the General Order and the General Order names both the owner and operator as "the Discharger."

2. On September 28, 2011, the Central Valley Water Board issued a letter detailing Forthcoming Assessment of Civil Liability for Failure to Comply with Water Code 13267 to the Discharger ("Prefiling Letter") (Exhibit A). The Prefiling Letter notified the Discharger that a 2009 Annual Report required under the General Order had not been submitted for the Dairy, which is a violation of Water Code section 13267. The Prefiling Letter also informed the Discharger that the Executive Officer of the Central Valley

Settlement Agreement: Arnold H. Avila and Arnold H. Avila Jr., Benfica Dairy

Water Board recommended imposing an administrative civil liability totaling \$7,800 for the alleged violation of the General Order.

3. The Parties engaged in settlement negotiations and agree to settle the violation cited in the Prefiling Letter without administrative or civil litigation and by presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption as an order by settlement pursuant to Government Code section 11415.60. The Prosecution Staff believes that the resolution of the alleged violation is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violation alleged in the Prefiling Letter except as provided in this Stipulated Order and that this Stipulated Order is in the best interest of the public.

4. To resolve the violation of Water Code section 13267 by consent and without further administrative proceedings, the Parties have agreed to the imposition of two thousand seven hundred fifty dollars (\$2,750), which is an amount that is less than the liability determined using the penalty methodology in the Water Quality Enforcement Policy, as described in Attachment A. The adjustment is the result of settlement negotiations, during which the Discharger presented information to Central Valley Water Board staff which demonstrated that the Discharger did not have the ability to pay the proposed penalty and continue in business. Based on this assessment, the liability was adjusted to \$2,750, which recoups the economic benefit derived from the violation plus 10% in accordance with the Enforcement Policy.

Section III: STIPULATIONS

The Parties stipulate to the following:

5. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of an administrative civil liability totaling \$2,750. Within thirty (30) days of the effective date of this Order, the Discharger agrees to remit, by check, TWO THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$2,750), payable to the *State Water Pollution Cleanup and Abatement Account*, and shall indicate on the check the number of this Order. The Discharger shall send the original signed check to the State Water Resources Control Board, Division of Administrative Services, Accounting Office, Attn: ACL Payment, PO Box 1888, Sacramento, California 95812-1888, and shall send a copy of the check to Clay Rodgers, Central Valley Water Board, 1685 "E" Street, Fresno, California 93706-2007, and Naomi Kaplowitz, Office of Enforcement, State Water Resources Control Board (State Water Board), 1001 "I" Street, 16th Floor, Sacramento, California 95814.

6. **Compliance with Applicable Laws:** The Discharger understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged in the Prefiling Letter may subject it to further enforcement, including additional administrative civil liability.

7. Party Contacts for Communications related to Stipulated Order:

For the Central Valley Water Board:

Clay Rodgers
Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, CA 93706-2007

For the Discharger:

Arnold H. Avila
[REDACTED]
Lemoore, CA 93245

Arnold H. Avila, Jr.
[REDACTED]
Lemoore, CA 93245

8. Attorney's Fees and Costs: Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

9. Matters Addressed by Stipulation: Upon the Central Valley Water Board's adoption of this Stipulated Order, this Order represents a final and binding resolution and settlement of the violations alleged in the Prefiling Letter, and all claims, violations or causes of action that could have been asserted against the Discharger as of the effective date of this Stipulated Order based on the specific facts alleged in the Prefiling Letter or this Order ("Covered Matters"). The provisions of this Paragraph are expressly conditioned on the full payment of the administrative civil liability, in accordance with Paragraph 4 of this Order.

10. Public Notice: The Discharger understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Central Valley Water Board, or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption, the Assistant Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Valley Water Board, or its delegee. The Discharger agrees that they may not rescind or otherwise withdraw their approval of this proposed Stipulated Order.

11. Addressing Objections Raised During Public Comment Period: The Parties agree that the procedure contemplated for the Central Valley Water Board's adoption of the settlement by the Parties and review by the public, as reflected in this Stipulated Order, will be adequate. In the event procedural objections are raised prior to the

Settlement Agreement: Arnold H. Avila and Arnold H. Avila Jr., Benfica Dairy

Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.

12. No Waiver of Right to Enforce: The failure of the Prosecution Staff or Central Valley Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Prosecution Staff or Central Valley Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order.

13. Interpretation: This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.

14. Modification: This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Central Valley Water Board.

15. If Order Does Not Take Effect: In the event that this Stipulated Order does not take effect because it is not approved by the Central Valley Water Board, or its delegee, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Central Valley Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing.

Notwithstanding objections on the admissibility of settlement discussions as evidence in a hearing, the Parties agree to waive any and all objections related to their efforts to settle this matter including, but not limited to:

- a. Objections related to prejudice or bias of any of the Central Valley Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Central Valley Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the Prefiling Letter in this matter; or
- b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.

16. Admission of Liability: In settling this matter, the Discharger admits to a violation of the General Order, and recognizes that this Stipulated Order may be used as evidence of a prior enforcement action consistent with Water Code section 13327.

- 17. Waiver of Hearing:** The Discharger has been informed of the rights provided by Water Code section 13323(b), and hereby waive their right to a hearing before the Central Valley Water Board prior to the adoption of the Stipulated Order.
- 18. Waiver of Right to Petition:** The Discharger hereby waives their right to petition the Central Valley Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waive their rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.
- 19. Covenant Not to Sue:** The Discharger agrees to a covenant not to sue or pursue any administrative or civil claim(s) against any State Agency or the State of California, their officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any Covered Matter.
- 20. Central Valley Water Board is Not Liable:** Neither the Central Valley Water Board members nor the Central Valley Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by the Discharger, their directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.
- 21. Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
- 22. No Third Party Beneficiaries.** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
- 23. Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Central Valley Water Board, or its delegee, enters the Order.
- 24. Counterpart Signatures:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

Settlement Agreement: Arnold H. Avila and Arnold H. Avila Jr., Benfica Dairy

IT IS SO STIPULATED.

California Regional Water Quality Control Board Prosecution Staff
Central Valley Region

By: Clay L. Rodgers
Clay L. Rodgers
Assistant Executive Officer

Date: 10/24/14

By: Arnold H. Avila
Arnold H. Avila (owner/operator)

Date: 9/24/14

By: Arnold H. Avila, Jr.
Arnold H. Avila, Jr. (operator)

Date: 9/24/14

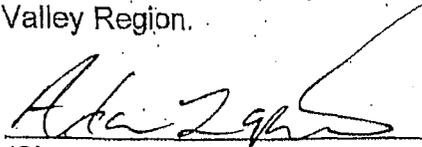
Order of the Central Valley Water Board

25. In adopting this Stipulated Order, the Central Valley Water Board or its delegee has considered, where applicable, each of the factors prescribed in Water Code section 13327. The consideration of these factors is based upon information and comments obtained by the Central Valley Water Board's staff in investigating the allegations in the Prefiling Letter or otherwise provided to the Central Valley Water Board or its delegee by the Parties and members of the public.

26. This is an action to enforce the laws and regulations administered by the Central Valley Water Board. The Central Valley Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), pursuant to title 14, California Code of Regulations sections 15308 and 15321, subdivision (a)(2). This is an action to enforce the laws and regulations administered by the Central Valley Water Board. The method of compliance with this enforcement action consists entirely of payment of an administrative penalty. As such, the Central Valley Water Board finds that issuance of this Order is not considered subject to the provisions of the California Environmental Quality Act as it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not considered a "project" (Public Resources Code 21065, 21080(a); 15060(c)(2),(3); 15378(a), Title 14, of the California Code of Regulations). In addition, the Central Valley Water Board finds that issuance of this Order is also exempt from the provisions of CEQA in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations as an enforcement action by a regulatory agency and there are no exceptions that would preclude the use of this exemption.

27. The terms of the foregoing Stipulation are fully incorporated herein and made part of this Order of the Central Valley Water Board.

Pursuant to Water Code section 13323 and Government Code section 11415.60, IT IS **HEREBY ORDERED** by the California Regional Water Quality Control Board, Central Valley Region.



(Signature)

ADAM LAPORTE, Assistant Executive Officer
(Print Name and Title)

Date: 1-27-15

EXHIBIT A
FORTHCOMING ASSESSMENT OF CIVIL LIABILITY (Prefiling Letter)



California Regional Water Quality Control Board

Central Valley Region

Katherine Hart, Chair

FILE



Matthew Rodriguez
Secretary for
Environmental Protection

1685 E Street, Fresno, California 93706
(559) 445-5116 • FAX (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>

Edmund G. Brown Jr.
Governor

28 September 2011

CERTIFIED MAIL

70110470000048732499

Arnold H. Avila
Benfica Dairy (owner/operator)

[REDACTED]
Lemoore, CA 93245

CERTIFIED MAIL

70110470000048732536

Arnold H. Avila, Jr.
Benfica Dairy (operator)

[REDACTED]
Lemoore, CA 93245

FORTHCOMING ASSESSMENT OF CIVIL LIABILITY FOR FAILURE TO COMPLY WITH CALIFORNIA WATER CODE SECTION 13267, BENFICA DAIRY, WDID 5D165066N01, 15505 19TH AVENUE, LEMOORE, KINGS COUNTY

The purpose of this letter is to inform you of a forthcoming Administrative Civil Liability Complaint (Complaint) and to notify you of your opportunity to negotiate and settle the assessment of monetary penalties for your failure to comply with the California Water Code. **Please read this notice carefully.**

The subject facility (Dairy) is regulated by the Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2007-0035 (General Order), which was issued by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) on 3 May 2007. Monitoring and Reporting Program (MRP) R5-2007-0035 accompanies the General Order. The General Order and the MRP contain reporting requirements pursuant to section 13267 of the California Water Code, which authorizes the Central Valley Water Board to require dairies to furnish technical reports under penalty of perjury. Anyone failing to comply with section 13267 is guilty of a misdemeanor and liable civilly in accordance with section 13268 of the California Water Code in an amount up to one thousand dollars (\$1,000) for each day the violation occurs.

The General Order and the MRP required, pursuant to section 13267 of the California Water Code, that an Annual Report for the calendar year 2009 (2009 Annual Report) be submitted for regulated facilities by 1 July 2010.

On 16 August 2010, Central Valley Water Board staff issued a Notice of Violation notifying you that the 2009 Annual Report had not been received for the Dairy. The Notice of Violation also requested that the delinquent report be submitted as soon as possible to avoid incurring any additional liability. To date, the required 2009 Annual Report has not been received.

As of 1 September 2011, the 2009 Annual Report is 427 days overdue. The maximum penalty for the violation described above is four hundred twenty-seven thousand dollars (\$427,000) based on a calculation of the total number of per-day violations times the statutory maximum penalty (427 total days of violation X \$1,000). Based on the use of the State Water Resources Control Board's



Water Quality Enforcement Policy, the Executive Officer of the Central Valley Water Board intends to issue you a Complaint in the amount of seven thousand eight hundred dollars (\$7,800) for this violation. This recommended penalty amount is based on information contained in the Central Valley Water Board's files and takes into account such factors as your culpability, cleanup and cooperation, history of violations, ability to pay and continue in business, and other factors as justice may require.

By way of this letter, you are being notified of the opportunity to meet with Central Valley Water Board staff prior to the issuance of the Complaint to discuss the alleged violations and proposed penalty amount. This meeting affords you the opportunity to potentially reduce the recommended penalty amount if you present new information to the Central Valley Water Board staff regarding the factors listed above or other information you believe is relevant to determining an appropriate monetary penalty.

If you intend to argue that you have an inability to pay the proposed penalty amount, you must bring documentation with you to the meeting to demonstrate such an inability. Appropriate documentation **must include** the last three years of signed federal income tax returns including schedules **and may also include** credit card or line of credit statements, mortgage loan statements, bank account statements, or any other document that explains the special circumstances regarding past, current, or future financial conditions. This information may be used in determining an appropriate monetary penalty assessment to resolve this matter without a hearing. If a settlement is reached at this meeting, the Executive Officer will forego issuing the Complaint. To avoid further liability, you are urged to submit the outstanding report.

In order to initiate any discussions to settle this matter, you must contact Dale Essary at (559) 445-5093 by **14 October 2011** to schedule a day and time to meet with Central Valley Water Board staff. If we do not receive a response from you by this date, the Executive Officer will issue you a Complaint in the proposed penalty amount and this matter will proceed to a formal enforcement hearing before the Central Valley Water Board or will refer the matter to the Attorney General's Office or other prosecution agency.

If you have any questions regarding this notice, please contact Dale E. Essary by phone at (559) 445-5093 or by email at dessary@waterboards.ca.gov.



DOUGLAS K. PATTESON
Supervising WRC Engineer

cc: Ms. Pamela Creedon, Central Valley Water Board, Rancho Cordova
Mr. David Boyers, Office of Enforcement, SWRCB, Sacramento
Kings County Planning Division, Hanford
Kings County Environmental Health Services, Hanford

**Attachment A – Stipulated Order
Specific Factors Considered – Civil Liability
Arnold H. Avila and Arnold H. Avila, Jr.
Benfica Dairy**

The Central Valley Water Board alleges that the Discharger failed to submit the 2009 Annual Report required to be submitted by 1 July 2010. For the purpose of applying the Enforcement Policy's administrative civil liability methodology, the alleged violation is a non-discharge violation. Each factor of the Enforcement Policy and its corresponding score for each violation are presented below:

- 1. Violation No. 1 (Failure to submit 2009 Annual Report):** In accordance with the Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order R5-2007-0035 (General Order) and the accompanying Monitoring and Reporting Program R5-2007-0035 (MRP), a 2009 Annual Report must be submitted for regulated facilities by 1 July 2010. Arnold Avila (owner) and Arnold Avila, Jr. (operator) (hereinafter Discharger) submitted this report for the Benfica Dairy on 18 April 2012.

Calculation of Penalty for Failure to Submit 2009 Annual Report

Step 1. Potential for Harm for Discharge Violations

This step is not applicable because the violation is not a discharge violation.

Step 2. Assessment for Discharge Violations

This step is not applicable because the violation is not a discharge violation.

Step 3. Per Day Assessment for Non-Discharge Violations

The per day factor is 0.35.

This factor is determined by a matrix analysis using the potential for harm and the deviation from requirements. The potential for harm was determined to be minor due to the following: The failure to submit the 2009 Annual Report did not increase the amount of pollution discharged or threatened to discharge into waters of the State. The submission of an Annual Report is a means through which the Central Valley Water Board can evaluate a Discharger's compliance with the General Order. Failing to timely submit the Annual Report to the Central Valley Water Board hinders the Board's ability to evaluate and address noncompliance, which presents a minor potential for harm. The deviation from requirements was determined to be major, as the requirement to submit the Annual Report has been rendered ineffective. The failure to submit the required technical report undermines the Central Valley Water Board's efforts to prevent water quality degradation and implement the regulatory protection measures detailed in the General Order.

Attachment A – Stipulated Order Benfica Dairy

Initial Liability

A failure to submit annual reports is punishable under Water Code section 13268(b)(1) by civil liability in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs. The Discharger failed to submit a 2009 Annual Report by 1 July 2010 as required by the General Order and the MRP. The Annual Report was received on 18 April 2012, which is 657 days late. A pre-filing settlement letter (Prefiling Letter) issued to the Discharger on 28 September 2011 establishes a total of 427 days in which the Discharger has been out of compliance for failure to submit the 2009 Annual Report, and is the basis for determining the recommended civil liability amount.

However, the alternative approach for calculating liability for multi-day violations in the Enforcement Policy is applicable. The failure to submit required technical reports does not cause a daily detrimental impact to the environment or the regulatory program and it does not result in an economic benefit that can be measured on a daily basis. It is the extended time period of non-compliance that causes the detrimental impact to both the environment and the regulatory program. Furthermore, the Discharger only receives an economic benefit by not submitting the required technical report, and not a per-day benefit during the entire period of violation.

Applying the per-day factor to the adjusted number of days of violation rounded to the nearest full day equals 20 days of violation. A calculation of initial liability totals \$7,000 (0.35 per day factor X 20 adjusted days of violation X \$1,000 per day penalty).

Step 4. Adjustment Factors

a) *Culpability*: 1.2

Discussion: The Discharger was assessed a score of 1.2, which increases the fine.

The Discharger is responsible for failing to submit the annual report alleged herein. The requirement to submit a 2009 Annual Report was detailed in the General Order. The Discharger was issued a Notice of Violation on 16 August 2010, which requested that the report be submitted as soon as possible to minimize liability. Thus, the Discharger had knowledge of the requirement to submit the Annual Report and failed to meet the reasonable standard of care in that regard.

**Attachment A – Stipulated Order
Benfica Dairy**

b) *Cleanup and Cooperation: 1.1*

Discussion: The Discharger was assessed a score of 1.1, which increases the fine. Despite the fact that the Discharger received multiple notices regarding the requirements set forth in the General Order, the Discharger failed to submit the Annual Report by the due date. The Discharger did submit the Annual Report on 18 April 2012. The violation of Water Code section 13268(a), alleged herein, is a non-discharge violation, and thus cleanup is not applicable.

c) *History of Violations: 1*

Discussion: The Discharger was assessed the score of 1 which neither increases nor decreases the fine. The Central Valley Water Board has no documentation of violations for the Discharger.

Step 5. Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 3.

- a) *Total Base Liability Amount: \$9,240* (Initial Liability (\$7,000) x Adjustments (1.2)(1.1)(1).

Step 6. Ability to Pay and Continue in Business

The Enforcement Policy provides that if the Central Valley Water Board has sufficient financial information to assess the violator's ability to pay the Total Base Liability, or to assess the effect of the Total Base Liability on the violator's ability to continue in business, then the Total Base Liability amount may be adjusted downward.

- a) *Adjusted Total Base Liability Amount: \$2,750*

Discussion: The Discharger does not have the ability to pay the total base liability amount based on an economic analysis of financial information that the Discharger provided to the Central Valley Water Board staff in 2012.

Based on the assessment of information, the Central Valley Water Board concludes that the Discharger does not have the assets to pay the Total Base Liability. Based on the reasons discussed above, a reduction in liability is warranted.

**Attachment A – Stipulated Order
Benfica Dairy**

Step 7. Other Factors as Justice May Require

- a) *Adjusted Combined Total Base Liability Amount:* \$2,750 + \$0 (Staff Costs) = **\$2,750.**
- b) *Discussion:* No staff costs have been assessed as part of this enforcement action.

Step 8. Economic Benefit

- a) *Estimated Economic Benefit:* **\$2,500**

Discussion: The Discharger has received an economic benefit from the costs saved in not drafting and preparing the 2009 Annual Report. This is based on the Discharger's cost to produce one annual report (\$2,500). The adjusted Total Base Liability Amount of \$2,750 is at least 10% higher than the economic benefit amount (\$2,500) as required by the Enforcement Policy.

Step 9. Maximum and Minimum Liability Amounts

- a) *Minimum Liability Amount:* **\$2,750**

Discussion: The Enforcement Policy requires that the minimum liability amount imposed not fall below the economic benefit plus ten percent. As discussed above, the Central Valley Water Board Prosecution Team's estimate of the Discharger's economic benefit obtained from the violation is \$2,500.

- b) *Maximum Liability Amount:* **\$427,000**

Discussion: The maximum administrative liability amount is the maximum amount allowed by Water Code section 13367(b)(1): one thousand dollars (\$1,000) for each day in which the violation occurs. Without the benefit of the alternative approach for calculating liability for multiday violations under the Enforcement Policy, the Discharger could face penalties for the total number of days in violation (427 total days X \$1,000 per day).

The proposed liability falls within these maximum and minimum liability amounts.

Step 10. Final Liability Amount

Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed for the failure to submit the 2011 Annual Report is **\$2,750.**